



**PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA**

FILED

RULES GOVERNING THE DEVELOPMENT OF PROGRAMS TO INCREASE PARTICIPATION
OF WOMEN, MINORITY, DISABLED VETERAN, ~~AND~~ LESBIAN, GAY, BISEXUAL AND
TRANSGENDER (LGBT) AND PERSONS WITH DISABILITIES BUSINESS ENTERPRISES IN
PROCUREMENT OF CONTRACTS FROM UTILITIES, COMMUNITY CHOICE
AGGREGATORS, AND ELECTRIC SERVICE PROVIDERS, AS REQUIRED BY PUBLIC
UTILITIES CODE SECTIONS 366.2 and 8281-8286

**Adopted April 27, 1988. Effective May 30, 1988.
Decision (D.) 88-04-057 in Rulemaking, 87-02-026.**

**Modified by D.88-09-024, D.89-08-041, D.90-11-053, D.90-12-027,
D.92-06-030, D.95-12-045, D.96-12-081, D.98-11-030, D.03-11-
024, D.05-12-023, D.06-08-031, D.11-05-019, ~~and~~ D.15-06-007,
and . Also modified by Resolution Exec-001 and
Resolution ALJ-377.**

TABLE OF CONTENTS

1. GENERAL

- 1.1. Intent
 - 1.1.1. Purpose
 - 1.1.2. ~~Revisions of~~ Scope
 - 1.1.3. Relief for Undue Hardship
- 1.2. Applicability
- 1.3. Definition
 - 1.3.1. "Commission"
 - 1.3.2. "Women Business Enterprise-owned business"
 - 1.3.3. "Minority Business Enterprise-owned business"
 - 1.3.4. "LGBT Business Enterprise-owned business"
 - 1.3.5. Disabled Veteran
 - 1.3.6. Disabled ~~V~~veteran Business Enterprise-owned business"
 - 1.3.7. ~~WMDV~~LGBTAfrican American Person
 - 1.3.8. Hispanic American Person
 - 1.3.9. Native American Person
 - 1.3.10. Asian Pacific American Person
 - 1.3.11. Other Groups and Individuals
 - 1.3.12. "Control"
 - 1.3.13. "Operate"
 - 1.3.14. "Goal"
 - 1.3.15. "Excluded category"
 - 1.3.16. "Short-term goal"

1.3.17. "Mid-term goal"

1.3.18. "Long-term goal"

1.3.19. "Utility"

1.3.20. "Clearinghouse"

1.3.21. "Subcontract"

1.3.21.1. Furnishing of supplies/services for use of real or personal property

1.3.21.2. Contractor's Obligation

1.3.22. "Product and Service Categories"

2. VERIFICATION

- 2.1. Clearinghouse to supply verification form to applicant
- 2.2. Assessing suitability of Eligible Supplier~~WMDVLGBTBE~~ to bid on procurement contracts
- 2.3. Eligible Supplier~~WMLGBTBE~~s to submit verification forms every three years
- 2.4. Completion of verification application
- 2.5. Endorsement of ability to perform
- 2.6. Availability of verification forms for inspection
- 2.7. Penalty for falsification

3. CLEARINGHOUSE

- 3.1. Authorization to establish and operate the Clearinghouse
- 3.2. Purpose of the Clearinghouse
- 3.3. Effect of utility participation in auditing and verification program
- 3.4. Verification renewal forms
- 3.5. Internet site
- 3.6. Approved third party agencies
- 3.7. Process for becoming a comparable verifying agency

4. DISABLED VETERANS

- 4.1. Disabled Veteran Business Enterprise
 - 4.1.1. Ownership
 - 4.1.2. Management and control
 - 4.1.3. Sole proprietorship
- 4.2. Administering Agency
- 4.3. Qualify as Disabled Veteran Business Enterprise~~VBE~~

5. LESBIAN, GAY, BISEXUAL, AND ~~FOR~~ TRANSGENDER⁺

- 5.1. ~~Database associated with the LGBTBEs~~
- 5.2. ~~Implementation of verification/certification and renewal/recertification processes for the LGBTBEs~~
- 5.3. ~~LGBTBE compliance with the Clearinghouse processes~~

~~¹Former Section 5 has been deleted per Decision 98-11-030.~~

6. UTILITY IMPLEMENTATION

- 6.1. Internal Utility Program Development
 - 6.1.1. Employee ~~WMDVLGBTBE~~ training
- 6.2. External Outreach
 - 6.2.1. Outreach activities
- 6.3. Subcontracting Program
 - 6.3.1. Subcontracting program to enhance, not replace ~~WMDVLGBTBE~~ prime contractor outreach program
 - 6.3.2. Application of subcontracting program
 - 6.3.3. Contracts not subject to subcontracting requirements
 - 6.3.4. Development of subcontracting programs by prime contractors
 - 6.3.5. Eligible Supplier ~~WMDVLGBTBE~~ notice in bids
 - 6.3.6. Inclusion of statement that subcontracting with Eligible Suppliers ~~WMDVLGBTBEs~~ is a factor to be considered in bid evaluation process
 - 6.3.7. Inclusion of prime contractor progress in utility's annual report
 - 6.3.8. Inclusion of subcontractor plans in utility's annual plan
 - 6.3.9. Inclusion of subcontractor awards in utility's Eligible Supplier ~~WMLGBTBE~~ results

7. REVIEW PROCESS, NOTICES OF APPEAL, AND COMPLAINT PROCESS

~~8. Scope of Complaints~~

9.7.

- ~~9.1. Internal Appeal of Complaints Concerning Clearinghouse~~ ~~WMLGBTBE~~ Verification ~~Denial~~ ~~seisions~~

7.1.

~~9.2. Appeal of the decision~~

~~Filing complaints by third parties and review~~

~~Factual basis for questioning the challenged party's WMLGBTBE status~~

~~Pendency of a third party challenge of a verified WMLGBTBE~~

~~Criteria of third party complaint~~

~~Commission Review of WMLGBTBE Verification Complaints~~

~~9.3. Notice of Appeals~~

~~9.4. Parties~~

~~9.5. Designation of Administrative Law Judge~~

9.6.7.2. Location

~~9.7. Time for hearing~~

- ~~9.8. Transcript~~
- ~~9.9. Interpreters~~
- ~~9.10. Attorney or other representative~~
- ~~9.11. Order of presentation; evidence~~
- ~~9.12. Submission~~
- ~~9.13. Order resolving appeal~~
- ~~9.14. Prohibition on ex parte communications~~
- 7.3. Third-Party Challenges
- 7.4. Contract Disputes

8. PROCUREMENT GOALS

10. REQUIRED GOALS

10.1. Setting of Goals

- ~~10.1.1. Total utility purchasing and/or contracting projections~~
- ~~10.1.2. Availability of WMDVLGBTBs and competitiveness in the geographical area served by utility~~
- ~~10.1.3. Market dynamics based on historical data and trends~~
- ~~10.1.4. Other appropriate factors which would increase the WMDVLGBTBs' share of utility business~~

10.2. Minimum long-term goals

10.3. Five-year Plan for LBGTBs

- ~~10.3.1. First year of implementation of the LBGTBs' inclusion~~
- ~~10.3.2. First five years of implementing the LBGTBs' inclusion~~
- ~~10.3.3. Focus for first three years of implementing the LBGTBs' inclusion~~
- ~~10.3.4. The 2016, 2017 and 2018 annual reports and plans~~
- ~~10.3.5. Utilities' reporting and planning duties beginning with 2019 annual reports and plans~~
- ~~10.3.6. Public workshop and joint report and recommendation~~
- ~~10.3.7. Staff monitoring, oversight, report, recommendation and 2021 en banc session~~

10.4. Parity with Legislative Findings

10.5. Subsets of Overall Goals

10.6. Setting of goals by major category of products/ services

10.7. "Excluded category" of products/ services

10.8. Deduction of present purchasing dollars from WMDVLGBTBE goals

10.9. Method of expressing specific product goals

10.10. Method of expressing overall program goals

10.11. Payments to other utilities

10.12. Establish a Separate Fuel Procurement Base

~~10.12.1. Fuel to be included in standard procurement base used to establish goals~~

~~10.12.2. Fuel procurement base must include all purchases of natural gas from domestic onshore natural gas markets~~

~~10.12.3. Purchases from WMDVLGBTBE suppliers fuels other than domestic onshore natural gas~~

~~10.12.4. Exclude purchases of fuel other than domestic onshore natural gas~~

~~10.13. Encouragement of WMDVLGBTBEs entry into marketplace~~

~~10.14. No penalties for failure to meet goals~~

~~10.15. Utility reporting of goals~~

11.9. ANNUAL REPORT

~~11.1.9.1.~~ Contents of Report

~~11.1.1.9.1.1.~~ Description of ~~WMDVLGBTBE~~ program activities

~~11.1.2.9.1.2.~~ Summary of ~~WMDVLGBTBE~~ purchases/ contracts

~~11.1.3.9.1.3.~~ Itemization of ~~WMDVLGBTBE~~ program expense

~~11.1.4.9.1.4.~~ Description of progress in meeting or exceeding set procurement goals

~~11.1.5.9.1.5.~~ Summary of prime contractor utilization of ~~WMDVLGBTBE~~ subcontractors

~~11.1.6.9.1.6.~~ List of ~~WMDVLGBTBE~~ complaints about the programs of the utility and other covered entities

~~11.1.7.9.1.7.~~ Summary of purchases/contracts for products/services in excluded categories

~~11.1.8.9.1.8.~~ Description of efforts to recruit Eligible WMDVLGBTBE-s Suppliers

~~11.1.9.9.1.9.~~ Justification for continued existence of any "excluded category"

~~11.1.10.9.1.10.~~ Summary of purchases in product and service categories that include renewable and non-renewable energy, wireless communications, broadband, smart grid, and rail projects, in addition to their current reporting categories.

~~11.1.11.9.1.11.~~ File verifiable report on ~~WMDVLGBTBE~~ participation of Eligible Suppliers in fuel markets

~~11.2.9.2.~~ General Order not intended to permit erosion of ~~WMDVLGBTBE~~ internal programs

~~11.3.9.3.~~ Further breakdown of reporting statistics authorized

~~11.4.9.4.~~ Compliance with LGBT-specific requirements

12.10. REQUIRED ANNUAL PLAN

~~12.1.10.1.~~ Contents of Plan

~~12.1.1.10.1.1.~~ Goals

~~12.1.2.10.1.2.~~ Description of ~~WMDVLGBTBE~~ program activities

~~12.1.3.10.1.3.~~ Plans for recruiting eligible WMDVLGBTBE suppliers where ~~WMDVLGBTBE~~ utilization of eligible suppliers has been low

~~12.1.4;~~10.1.4. Plans for recruiting ~~Eligible WMDVLGBTBE s~~Suppliers in any "excluded category"

~~12.1.5;~~10.1.5. Plans for encouraging prime contractors and grantees to engage ~~eligible suppliers WMDVLGBTBEs~~

~~12.1.6;~~10.1.6. Plans for complying with ~~WMDVLGBTBE~~ program guidelines
~~Compliance with LGBT-specific requirements~~

13.11. Annual Reports and Annual Plans for Community Choice Aggregators

~~13.1;~~11.1. Program recommendations for carrying out policy

12. ANNUAL FORMS FOR SMALLER UTILITIES AND SMALLER ELECTRIC PROVIDERS

13. COMMISSION ANNUAL REPORT

14. WORKFORCE DIVERSITY AND BOARD DIVERSITY REPORTING

15. VOLUNTARY COMPLIANCE AND REPORTING

14.16. COMMISSION ANNUAL EN BANC MEETING

1. GENERAL

1.1. Intent

- 1.1.1. Purpose - These rules implement California Public Utilities Code ~~(Code)~~(Pub. Util. Code) § 366.2 and §§~~sections~~ 8281-8286, which require the Commission to establish ~~rules~~a procedure for ~~(1) the electric utilities~~at, gas utilities, water utilities, wireless telecommunications service providers, ~~and~~ telephone utilities, and electric service providers~~corporation~~ with gross annual California revenues exceeding ~~twenty-five million dollars (\$1525,000,000)~~ and their commission-regulated subsidiaries and affiliates and (2) community choice aggregators with gross annual revenues exceeding \$15,000,000 to submit annual ~~detailed and verifiable~~ plans and reports for purposes of increasing procurement in all categories from business enterprises owned and controlled by women-owned, minority-owned, disabled veteran, ~~owned and~~ LGBT, and persons with disabilities. -owned business enterprises' (WMDVLGBTBEs) ~~procurement in all categories.~~ Pursuant to Public Utilities Code § 366. 2(m)(1), these rules also direct community choice aggregators to submit detailed and verifiable plans to address increasing procurement from small and local business enterprises in annual plans. Non-utility entities, meaning electric service providers and community choice aggregators, that must comply with the annual report and annual plan requirements under Pub. Util. Code §366.2 and §§ 8281-8286 are referred to herein as "other covered entities."
- 1.1.2. ~~Revisions of~~ Scope - These rules may be revised on the basis of experience gained in their application and/or changes in legislation. ~~Utilities and other interested parties may individually or collectively file an application with the Commission for the purpose of amending these rules. Any such application shall clearly set forth the changes proposed and the supporting rationale.~~
- 1.1.3. Relief for Hardship - In cases where ~~the application of any of~~ these rules results in undue hardship or unreasonable expense to a utility or other covered entity, the utility or other covered entity may request relief from the Commission by filing an application in accordance with the Commission's Rules of Practice and Procedure. Where the relief requested is of minor importance or temporary in nature, the utility may apply for such relief through an advice letter filing. Any advice letter filing must, at a minimum, be served on all parties on the service list of this proceeding.

1.2. Applicability

These rules apply to ~~all~~ electric utilities~~at~~, gas utilities, water utilities, wireless telecommunications service providers, ~~and~~ telephone utilities, and electric service providers~~corporation~~ with gross annual California revenues exceeding ~~twenty-five million dollars (\$1525,000,000)~~ and their commission-regulated subsidiaries and affiliates. These rules also apply to all community choice aggregators with gross annual California revenues exceeding \$15,000,000.

1.3. Definitions

- 1.3.1. "Commission" means the California Public Utilities Commission, as provided for in Article XII of the California Constitution.
- 1.3.2. "Women-~~owned~~ business enterprise" means (1) a business enterprise (a) that is at least 51% owned by a woman or women or (b) if a publicly owned business, at least 51% of the stock of which is owned by one or more women, and (2) whose management and daily business operations are controlled by one or more of those individuals.
- 1.3.3. "Minority-~~owned~~ business enterprise" means (1) a business enterprise (a) that

is at least 51% owned by a minority individual or group(s) or (b) if a publicly owned business, at least 51 % of the stock of which is owned by one or more minority groups, and (2) whose management and daily business operations are controlled by one or more of those individuals. The contracting utility shall presume that minority includes, but is not limited to, African Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and other groups, as defined herein.

1.3.4. “LGBT-~~owned~~ business enterprise” means (1) a business enterprise (a) that is at least 51% owned by a lesbian, gay, bisexual, or transgender person or persons or

1.3.5. (b) if a publicly owned business, at least 51 % of the stock of which is owned by one or more lesbian, gay, bisexual, or transgender persons; and (2) whose management and daily business operations are controlled by one or more of those individuals.

“Persons with disabilities business enterprise” means (1) a business enterprise (a) that is at least 51% owned by a person or persons with a disability or (b) if a publicly owned business, at least 51 % of the stock of which is owned by one or more persons with a disability; and (2) whose management and daily business operations are controlled by one or more of those individuals.

~~1.3.5, 1.3.6.~~ “WMLGBTBE” means a women-owned, minority-owned and/or LGBT-owned business enterprise. Under these rules, ~~a woman, a minority and/or an LGBT~~ the persons owning ~~such an eligible suppliers enterprise~~ must be either U.S. citizens or legal aliens with permanent residence status in the United States.

~~1.3.6, 1.3.7.~~ 1.3.7. Disabled veteran refers to a veteran of the military, naval or air service of the United States with a service-connected disability who is a resident of the State of California.

~~1.3.7, 1.3.8.~~ 1.3.8. Disabled veteran-~~owned~~ business enterprise is defined ~~in detail in~~ Section 4, ~~herein, of this General Order.~~

~~1.3.8, 1.3.9.~~ “WMDVLGBTBE” means a women-owned, minority-owned, disabled veteran-owned and/or LGBT-owned business enterprise.

~~1.3.9, 1.3.10.~~ 1.3.10. African American person, for purposes of this General Order, refers to a person having origins in any black racial groups of Africa.

~~1.3.10, 1.3.11.~~ 1.3.11. Hispanic American person, for purposes of this General Order, refers to a person of Mexican, Puerto Rican, Cuban, South or Central American, Caribbean, and other Spanish culture or origin.

~~1.3.11, 1.3.12.~~ 1.3.12. Native American person, for purposes of this General Order, refers to a person having origin in any of the original peoples of North America or the Hawaiian Islands, in particular, American Indians, Eskimos, Aleuts, and Native Hawaiians.

~~1.3.12, 1.3.13.~~ 1.3.13. Asian Pacific American person, for purposes of this General Order, refers to a person having origin in Asia or the Indian subcontinent, including, but not limited to, persons from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan, India, Pakistan, and Bangladesh.

~~1.3.13, 1.3.14.~~ 1.3.14. Other groups, or individuals, means person found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of Small Business Act as amended (15 U.S.C. 637 (a)), or the Secretary of Commerce

pursuant to Section 5 of Executive Order 11625.

~~1.3.14.~~1.3.15. "Control" means exercising the power to make policy decisions.

~~1.3.15.~~1.3.16. To "operate" means to be actively involved in the day-to-day management. It is not enough to merely be an officer or director.

~~1.3.16.~~1.3.17. "Goal" means a target which, when achieved, indicates progress in a preferred direction. A goal is neither a requirement nor a quota.

~~1.3.17.~~1.3.18. "Excluded category" means a category of products or services which may be removed from the dollar base used to establish goals, pursuant to former Section 8.5 of this General Order, because of the established unavailability of eligible suppliers ~~WMDVLGBTBEs~~ capable of supplying those products or services.

~~1.3.18.~~1.3.19. "Short-term goal" means a goal applicable to a period of one (1) year.

~~1.3.19.~~1.3.20. "Mid-term goal" means a goal applicable to a period of three (3) years.

~~1.3.20.~~1.3.21. "Long-term goal" means a goal applicable to a period of five (5) years.

~~1.3.21.~~1.3.22. "Utility" means ~~all~~ electrical utilities, gas utilities, water utilities, wireless telecommunications service providers, and telephone utilities ~~corporation~~ with gross annual California revenues exceeding ~~twenty-five million dollars~~ (\$~~1525~~,000,000) and their Commission-regulated subsidiaries and affiliates.

~~1.3.22.~~1.3.23. The "Clearinghouse" means a Commission-supervised program or entity that shall conduct ~~WMLGBTBE-certifications~~/verifications and maintain a database of eligible suppliers ~~WMDVLGBTBEs~~ for the use of utilities and other covered entities under the Commission's Supplier Diversity Program. ~~and the Commission.~~

~~1.3.23.~~1.3.24. "Subcontract" means any agreement or arrangement between a contractor and any party or person (in which the parties do not stand in the relationship of an employer and an employee):

~~1.3.23.1.~~1.3.24.1. For the furnishing of supplies or services for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

~~1.3.23.2.~~1.3.24.2. Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken or assumed.

~~1.3.24.~~1.3.25. "Product and service categories" means product and service categories as defined by the Standard Industrial Classification (SIC) system maintained by the United States Department of Labor, Occupational Safety and Health Administration, as they currently read or as amended or as defined by any other updated classification system that supersedes the SIC system.

2. VERIFICATION

The following rules ~~and guidelines~~ shall be used to verify the eligibility of business enterprises owned and controlled by women, owned, minority, owned and LGBT, or persons with disabilities ~~owned business enterprises (WMLGBTBEs)~~ for participation in utility ~~WMDVLGBTBE~~ procurement contracts programs under the Commission's Supplier Diversity Program.

- 2.1. The Clearinghouse, as described in Section 3, ~~of this General Order~~ shall supply a verification form to applicants. An applicant may complete the verification forms

and return ~~itthem~~ to the Clearinghouse for processing ~~and inclusion in the database. For an applicant for LGBT-owned business enterprise (LGBTBE) status, the Clearinghouse shall also comply with additional rules applicable to LGBTBEs set forth in Section 5 of this General Order and conduct verifications/certifications and renewals/recertifications of LGBTBEs in compliance with the directives set forth in D.15-06-007. Suppliers that are certified/verified under GO 156 are referred to herein as “eligible suppliers”.~~

- 2.2. In assessing the suitability of a supplier ~~WMDVLGBTBE~~ to bid for procurement contracts, a utility or other covered entity may require additional information or the completion of additional forms to comply with specific requirements created by the unique character of its business, such as insurance requirements, product and service codes, and bonding limits, ~~and so on~~. A utility or other covered entity may not, however, require ~~such~~ additional information ~~in order~~ to verify that a business is in fact an eligible supplier under the Commission’s Supplier Diversity Program. ~~WMDVLGBTBE.~~
- 2.3. Eligible suppliers ~~WMLGBTBEs~~ shall be required to submit verification forms at least once every three years to the Clearinghouse.
- 2.4. Completion and submission of the verification application to the Clearinghouse serves to only initiates a verification of the business as an eligible supplier under the Commission’s Supplier Diversity Program’s ~~WMLGBTBE status~~. Submission ~~Filing~~ of an application does not guarantee verification.
- 2.5. The fact that a business is verified as an eligible supplier under the Commission’s Supplier Diversity Program and ~~WMDVLGBTBE is~~ included in the Clearinghouse’s database of eligible suppliers is not ~~shall neither be construed as an endorsement of its ability to perform and does not nor shall such inclusion guarantee contracts it business with the utilities or other covered entities.~~
- 2.6. An applicant’s ~~WMLGBTBE v~~erification forms shall be available for inspection by the Commission.
- 2.7. Falsification of information by the applicant on the verification form is subject to the penalties provided by Pub.~~lie~~ Util.~~ities~~ Code ~~S~~section 8285.

3. CLEARINGHOUSE

The Commission shall provide for a clearinghouse to for the sharing the name of and verification status of eligible suppliers under the Commission’s Supplier Diversity Program ~~of WMDVLGBTBE identification and verification information.~~

- 3.1. The Commission may establish and operate such a clearinghouse internally or authorize, by decision or resolution, a utility-formed entity or arrangement to fund the operation of such a clearinghouse. In authorizing a utility-formed entity or arrangement, the Commission will specify sufficient terms and conditions to specify how verifications and audits shall be performed and to ascertain and ensure that the Clearinghouse is operated in accordance with this General Order, Pub.~~lie~~ Util.~~ities~~ Code ~~S~~sections 8281-8286, and other applicable legal requirements.
- 3.2. The ~~primary~~ purpose of the Clearinghouse shall be to audit and verify the status of business enterprises as eligible suppliers under the Commission’s Supplier Diversity Program ~~WMLGBTBEs~~, and to establish and maintain a database of eligible suppliers ~~WMDVLGBTBEs~~ that is accessible to the Commission, ~~and to participating utilities, and other covered entities.~~
- 3.3. The Clearinghouse auditing and verification program of suppliers shall preclude

- the need for ~~an individual utility or other entity~~ to audit and verify whether a business enterprise is an eligible supplier under the Commission's Supplier Diversity Program~~the status of the WMLGBTBEs it does business with.~~
- 3.4. The Clearinghouse shall distribute renewal verification forms to the eligible suppliers that are already verified WMLGBTBEs at least once every three years. If the eligible supplier does not renewal is not completed and returned the renewal within a reasonable time, the Clearinghouse shall notify the eligible supplier WMLGBTBE and utilities that the eligible supplier WMLGBTBE will not be listed as an eligible supplier-verified WMLGBTBE in the shared database until the renewal is completed and approved.
 - 3.5. The Clearinghouse shall post on its internet web site a calendar of utility procurement- related information sharing and educational events and activities scheduled by utilities and other covered entities in furtherance of legislative policy and this General Order and may post additional information , or links to information, regarding procurement and/or educational opportunities.
 - 3.6. In addition to the Clearinghouse, the Commission may approve of third-party agencies to perform verifications of applicants WMLGBTBEs. The Clearinghouse is authorized to accept certifications by approved third-party agencies, as appropriate, and to develop and implement a streamlined comparable agency verification process for any applicant WMLGBTBE that already has a certification through an approved third-party agency.² ~~Once~~ After the Commission has approved of a applicable third-party agency(ies), applicants WMLGBTBE may choose between the options of either (1) going directly to the Clearinghouse for verification or (2) through an approved third-party agency, followed by a streamlined comparable agency verification process with the Clearinghouse. If an applicant WMLGBTBE already has a certification through an approved third-party agency, the applicant is encouraged should to apply to the Clearinghouse through thea streamlined comparable agency verification process.
 - 3.7. The following shall be the process for a third-party ny verifying agency seeking to become a comparable verifying agency under this General Order:
 - (a) The requesting third-party agency shall submit a detailed written request (herein "Request") to the Commission's GO 156 Staff;
 - (b) The written Request shall include a detailed explanation showing that the requesting third-party agency's objectives, eligibility requirements, required documentation, and review and certification processes are substantially similar to those of the Clearinghouse;
 - (c) The Commission's GO 156 Staff must evaluate the Request and make a recommendation to the Commission within 60 days of receiving a completed written Request;¹ and
 - (d) Upon review of the Request by the Commission's GO 156 Staff and the Commission's consideration GO 156 Staff's Recommendation, if the Request is approved, the GO 156 Staffe-Commission will publishissue a draft resolution under the Commission's Rules of Practice and Procedure granting or denying the requesting third- party agency its comparable verifying agency status. This draft resolution shall be placed on the Commission's Agenda for a vote.

4. DISABLED VETERANS

¹ See e.g., D.06-08-031, and Resolution Exec.--001, dated (July 9, 2009).

¹All references to "days" shall be calculated as set forth in Rule 1.15 of the Commission's Rules of Practice and Procedure.

The following rules ~~and guidelines~~ shall apply to ~~service~~ disabled veteran business enterprises (~~also referred to as "DVBE"~~). ~~The term "d~~Disabled veteran" is defined in Section 1.3.6 of this General Order.

- 4.1. "Disabled veteran-~~owned~~ business enterprise" ~~is defined in Military and Veterans Code § 999, as required by D.92-06-030, to~~ means a business enterprise certified by the California Department of General Services as meeting all of the following requirements.
 - 4.1.1. It is a sole proprietorship at least 51 percent owned by one or more disabled veterans or, in the case of a publicly owned business, at least 51 percent of its stock is owned by one or more disabled veterans; a subsidiary which is wholly owned by a parent corporation, but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture's management and control and earnings are held by one or more disabled veterans.
 - 4.1.2. The management and control of the daily business operations are by one or more disabled veterans. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern.
 - 4.1.3. It is a sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.
- 4.2. Pursuant to Pub. ~~He~~ Utilities Code ~~§section~~ 82843(ae)(2), DVBEs are verified/certified by the California State Department of General Services.; ~~The Office of Small Business and Disabled Veterans Business Enterprise Services currently performs this verification/certification, and T~~he Clearinghouse shall accept the verifications/certifications by the Department of General Services as though the DVBE firm has been verified/certified by the Clearinghouse and ~~to~~ include such DVBE ~~firm~~ in the Clearinghouse's database of the verified/certified eligible suppliers WMDVBE firms.
- 4.3. In order to qualify as a DVBE, a business ~~enterprises~~ must meet the criteria in Section 4.1 and must present a current certificate from the California State Department of General Services verifying that such criteria have been met.

5. LESBIAN, GAY, BISEXUAL AND ~~FOR~~ TRANSGENDER²

~~Pursuant to D.15-06-007, t~~The following additional rules ~~and guidelines~~ shall apply to LGBT-~~owned~~ business enterprises (~~also referred to as "LGBTBEs"~~).

By or before September 1, 2015, the Clearinghouse shall begin maintaining the database associated with the LGBTBEs for purposes of the Utilities' Commission's Supplier Diversity Program ~~under this General Order. By or before September 1, 2015, the Clearinghouse shall develop and implement verification/certification and renewal/recertification processes for the LGBTBEs that comply with D.15-06-007 and this General Order.~~

~~A business enterprise seeking verification/certification or renewal/recertification of its LGBTBE status may seek verification/certification or renewal/recertification through the Clearinghouse process, as soon as it is developed and implemented pursuant to D.15-06-007 and this General Order.~~

² ~~Former Section 5 has been deleted per D.98-11-030.~~

6. IMPLEMENTATION BY UTILITIES AND OTHER COVERED ENTITIES **IMPLEMENTATION**

Each utility ~~and other covered entity's WMDVLGBTBE program~~ shall ~~be design and implement a programed~~ to ensure that eligible suppliers in the Commission's Supplier Diversity Program ~~WMDVLGBTBEs~~ are encouraged to become eligible potential suppliers of products and services to the utilities and other covered entities subject to GO 156. Nothing in GO 156 authorizes or permits a utility or other covered entity to utilize set-asides, preferences, or quotas in the administration of its ~~WMDVLGBTBE~~ program in compliance with GO 156. The utility or other covered entity retains ~~its~~ authority to use its legitimate business judgment to select the supplier for a particular contract.

6.1. Internal ~~Utility~~ Program Development by Utilities and Other Covered Entities

Each utility or other covered entity shall maintain an appropriately sized staff to provide overall ~~WMDVLGBTBE program~~ direction and guidance and to implement ~~WMDVLGBTBE their own~~ program requirements consistent with the Commission's Supplier Diversity Program. Each utility and other covered entity shall provide the email address and telephone number of a contact person on the website of the utility or other covered entity in a prominent location so that eligible suppliers and applicants are able to obtain more information about these internal programs.

- 6.1.1. Each utility or other entity shall ensure that its ~~staff~~employees with procurement responsibilities receive training in the implementation of the Commission's Supplier Diversity Program ~~its WMDVLGBTBE program~~.

6.2. External Outreach by Utilities and Other Covered Entities

Each utility or other covered entity shall implement an outreach program to inform and recruit eligible suppliers ~~WMDVLGBTBEs~~ to apply for procurement contracts.

- 6.2.1. Outreach activities may vary for each utility or other covered entity depending on ~~its~~ size, service territory, and specific lines of business. However, each utility or other covered entity shall, at a minimum:

- 6.2.1.1. Actively seek out opportunities to identify eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBE contractors~~ and to expand ~~WMDVLGBTBE~~ source pools;
- 6.2.1.2. Actively support the efforts of organizations experienced in the field who promote the interests of eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBE contractors~~;
- 6.2.1.3. Work with eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBE contractors~~ to facilitate contracting relationships by explaining ~~utility~~ qualification requirements, bid and contracting procedures, materials requirements, invoicing and payment schedules, and other procurement practices and procedures;
- 6.2.1.4. At the request of any unsuccessful ~~WMDVLGBTBE~~ bidder, provide information concerning the relative range/ranking of the ~~WMDVLGBTBE contractor's~~ bid as contrasted with the successful bid. Information on additional selection criteria, such as warranty periods, maintenance costs, and delivery capability, shall be provided when requested if disclosure would not violate the proprietary nature of the specific contract element;

- 6.2.1.5. To the extent possible, make available to eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBE contractors~~ lists of utility purchase/contract categories which offer them the best opportunity for success;
- 6.2.1.6. Encourage employees involved in procurement activities to break apart purchases and contracts, as appropriate, to accommodate the capabilities of eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBEs~~;
- 6.2.1.7. Summarize this General Order in ~~its~~ outreach program handouts and electronic notices. Such summaries shall state that eligible suppliers under the Commission's Supplier Diversity
- 6.2.1.8. Offer the same assistance set forth in Section 6.2 to any interested party ~~non-WMDVLGBTBEs~~, upon request.

6.3. Subcontracting Program

Each utility or other covered entity shall establish and maintain a subcontracting program for the purpose of encouraging its contractors to utilize eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBE subcontractors~~.

- 6.3.1. The subcontracting program shall serve as an enhancement to, and not as a replacement for, the utility's or other covered entity's ~~WMDVLGBTBE prime contractor~~ outreach program to eligible suppliers under the Commission's Supplier Diversity Program.
- 6.3.2. The subcontracting program shall apply to the following:
 - 6.3.2.1. Purchases/contracts exceeding \$500,000 for products and services;
 - 6.3.2.2. Construction contracts exceeding \$1,000,000; and
 - 6.3.2.3. Purchases/contracts which offer ~~WMDVLGBTBE~~ subcontracting opportunities, regardless of value, where appropriate.
- 6.3.3. The subcontracting program need not be applied to the procurement of products manufactured for general consumption, such as paper, pens, and the like.
- 6.3.4. Each utility or other covered entity shall encourage and assist its prime contractors to develop plans to increase the utilization of eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBEs~~ as subcontractors. Prime contractors shall be encouraged to submit to the utility or other covered entity plans that include goals for the utilization of eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBEs~~ as subcontractors. These plans may be incorporated into the contract between the utility or other covered entity and the prime contractor. The prime contractor may submit periodic reports on its compliance with the plan to the utility or other covered entity.
- 6.3.5. Each utility or other covered entity is encouraged to incorporate in all purchase orders, requests for bid proposals, and other appropriate procurement documents related to procurement efforts subject to the subcontracting program, a statement similar to the following:

**UTILIZATION OF BUSINESS ENTERPRISES OWNED
and CONTROLLED BY WOMEN, MINORITIES,
DISABLED VETERANS,
AND LGBT, AND PERSONS WITH DISABILITIES**

It is the policy of ~~this company utility~~ that business enterprises owned and controlled by women, ~~minorities~~, disabled veterans, ~~and LGBT, and persons with disabilities (herein "diverse suppliers")~~ shall have the maximum practicable opportunity to participate in the performance of contracts.

However, this policy shall not be used to exclude any qualified businesses ~~non-WMDVLGBTBEs~~ from participating in ~~utility~~ contracting opportunities.

The contractor agrees to use ~~its his or her~~ best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract.

The contractor agrees to inform all prospective ~~WMDVLGBTBE~~ subcontractors of the ~~if~~ opportunity to request from the Clearinghouse a verification application to be certified as a diverse supplier form, and return the completed application form to the Clearinghouse for processing, and, if verified/certified, the prospective supplier will be included ~~inclusion~~ in the database, as a diverse supplier.

- 6.3.6. Each utility or other covered entity is encouraged to inform its prime contractors ~~suppliers of products and services~~ that the prime contractor's good faith efforts to subcontract with eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBEs~~ is a factor that will be considered in the bid evaluation process. A statement to that effect could be included in all appropriate procurement documents.
- 6.3.7. Each utility or other covered entity shall monitor and include in its annual report to the Commission a summary of progress and efforts by its prime contractors to progress in increasing the participation of eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBE subcontractors~~.
- 6.3.8. Each utility or other covered entity shall include in its annual plan to the Commission a description of future plans for encouraging both prime contractors and grantees to engage eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBE subcontractors~~ in all procurement categories which provide subcontracting opportunities.
- 6.3.9. Each utility or other covered entity may include awards to eligible supplier ~~verified WMDVLGBTBE~~ subcontractors in its GO 156 reporting ~~WMLGBTBE~~ results.

7. COMPLAINT REVIEW PROCESS, NOTICE OF APPEALS, AND COMPLAINTS

~~7.1—Complaints relating to this General Order shall be filed and appealed only pursuant to the procedure set forth in this Section 7. The Commission will not, however, entertain complaints which do not allege violations of any law, Commission rule, order, or decision, or utility tariff resulting from such Commission action, but which instead involve~~ This section sets forth the review process for when an applicant seeks (1) a reconsideration of a denial to verify/certify by the Clearinghouse and (2) to file a Notice of Appeal with the Commission after the Clearinghouse confirms its denial. This section also sets forth a process for a third-party

to challenge a verification/certification of an eligible supplier by the Clearinghouse.

7.1. Internal Review Process. The review process for a denial of verification/certification includes two steps. First, the applicant can seek internal review from the Clearinghouse. If the Clearinghouse confirms the denial, as the second step, the applicant can seek review of the denial with the Commission by filing a Notice of Appeal under Resolution ALJ-377 (or successor rules) and the processes set forth therein. This resolution is available on the Commission's website. Resolution ALJ-377 sometimes refers to Notice of Appeals as complaints.

7.1.1. Complaints Concerning WMLGBTBE Verification Decisions

7.1.2. All complaints concerning a WMLGBTBE verification decision of the Clearinghouse for purposes of this General Order will be governed by the following procedures.

7.1.1. Business enterprises whose WMLGBTBE status has been denied by the Clearinghouse, or who have been deverified by the Clearinghouse, may appeal the decision to the Commission after exhausting their remedies under the internal appeal process. The Clearinghouse must implement an efficient internal review process and must promptly by the Clearinghouse, a copy of which will be provided by the Clearinghouse upon request by the provide a copy of confirmation or reversal of the denial to the applicant affected business enterprise.

7.2. Notices of Appeal. The Notice of Appeal will be docketed as a formal proceeding. All docketed matters are accessible on the Commission's website. The Chief Administrative Law Judge shall designate an Administrative Law Judge to hear the Notice of Appeal.

7.2.1. The Administrative Law Judge shall make best efforts to notice the Notice of Appeal for hearing between 10 and 20 days after being assigned to hear the Notice of Appeal. The Administrative Law Judge may confer with parties to determine whether any material facts are in dispute prior to scheduling a hearing and consider whether a hearing is warranted. The Administrative Law Judge may, for good cause shown or upon agreement of the parties, grant a reasonable continuance of the hearing and, instead, schedule and notice the hearing beyond the time period noted above.

7.2.2. A party or jointly the parties may order an expedited transcript of the hearing. Costs may be associated with an order for an expedited transcript, in accordance with the Commission's requirements. In the absence of an expedited transcript, the Commission may address this matter after approximately 8 weeks, the length of time for preparation of a transcript (when no expedited order is placed).

7.2.3. A party may be represented at the hearing by an attorney or other representative.

7.2.4. At the hearing, the applicant carries the burden of proof and shall open and close but the Administrative Law Judge has the discretion to alter the order of presentation. Formal rules of evidence do not apply. All relevant and reliable evidence may be received in the discretion of the Administrative Law Judge. No deference will be accorded to the underlying denial by the Clearinghouse. The standard of proof is preponderance of evidence.

7.2.5. The Administrative Law Judge shall issue a draft resolution for the Commission's consideration resolving the Notice of Appeal as soon as possible but no later than 30 days after the record of the Notice of Appeal is submitted. The draft resolution will be placed on the Commission's first available agenda,

consistent with the Commission's Rules of Practice and Procedure. In the event the transcript of the hearing is not available, the Administrative Law Judge may delay issuing a draft resolution. This timeline would therefore be longer than set forth in Resolution ALJ-377.

7.1.3;7.2.6. From the date the Notice of Appeal is filed and served to and including the date the Commission's final resolution is published, neither party (or an attorney or agent acting on behalf of a party) shall engage in ex parte communications, except for procedural matters. More information about ex parte communications is available in the Commission's Rules of Practice and Procedure.

7.2.7.3. Third-Party Challenges. A Third-partyies may file complaints challenging the certification/verification by the Clearinghouse of an applicant/eligible supplier under the Supplier Diversity Program whether the certification/verification is pending or completed. WMLGBTBE status of businesses whose WMLGBTBE verification is pending, or who have already been verified by the Clearinghouse. Third-partySuch challengescomplaints must comply with all the following: (1) be in writing and sentbe addressed to the Clearinghouse; (2) set forth with specificity the grounds for the challenge in ordinary and concise language; (-3) include the name and address of the third-partycomplainant; and (4) be served on the affected applicant or eligible supplier on the same day sent to the ClearinghouseWMLGBTBE. Such challengescomplaints may include supporting documentation.

7.2.1;7.3.1. The Clearinghouse will review third-party ~~challengescomplaints~~ to determine whether ~~there appears to be~~ a factual basis for ~~the~~ questioning ~~exists. the challenged party's WMLGBTBE status.~~ If the Clearinghouse determines ~~that there appears to be an~~ insufficient factual basis for the ~~challenge existssomplaint~~, it shall act as follows: (a) inform the ~~third-partycomplainant~~ and subject applicant or eligible supplier-affected WMLGBTBE of this determination in writing within 20 business days of the receipt of the ~~challengecomplaint~~ and (b) inform the ~~third-partycomplainant~~ of ~~theits~~ right to file a Notice of Appeal this determination to the Commission. Resolution ALJ-377(or successor rules) sets forth the process for filing the Notice of Appeal. Additional procedures related to Notices of Appeal are set forth herein.

7.2.2;7.3.2. If the Clearinghouse determines that ~~there appears to be a~~ sufficient factual basis for the challenge exists, questioning the challenged party's WMLGBTBE status, itthe Clearinghouse shall require the applicant/eligible supplier challenged party to provide the Clearinghouse with any additional information needed sufficient to permit ~~the further~~ evaluation of the verification/certification of the applicant/eligible supplier its WMLGBTBE status. Following the Clearinghouse's a thorough review and evaluation of the information presented by both the third-party and the applicant/eligible supplier parties, and, the Clearinghouse will propose a resolution and aan provide for an opportunity for each party to respond to the Clearinghouse's proposed resolution ~~of the verification challenge.~~, Then, the Clearinghouse shall notify the third-party and the applicant or eligible supplier par of its final verification decision and of ~~the their~~ right to file a Notice of Appeal ofappeal this determinationeision to with the Commission pursuant to Resolution ALJ-377 (or successor rules) and the processes set forth herein.³

7.3.3. During the pendency of a third-party challenge of a business enterprise

³ See also Resolution ALJ-299, dated July 2, 2014.

~~already verified/certified by the Clearinghouse verified WMLGBTBE, the business enterprise will remain certified/verified. presumption that the challenged party is a WMLGBTBE will remain in effect.~~

~~7.2.3.~~

~~7.2.4. If a third- party challengecomplaint does not include the minimum criteria set forth above or, or if the third party it withdrawsreseinds its challengecomplaint, the Clearinghouse may continue its review the complaint to determine whether the challengeit merits consideration. unilateral consideration by the Clearinghouse.~~

~~7.3.4.~~

~~7.3. Contract Disputes. Commission Review of WMLGBTBE Verification Complaints⁴~~

~~7.4. The complainant, within 20 days after the service of the final decision on the complaint by the Clearinghouse may serve a Notice of Appeal on the Clearinghouse, indicating the grounds for the appeal. The complainant shall also serve the Chief Administrative Law Judge and the appropriate Commission director. The appeal will not be docketed as a formal proceeding.~~

~~7.5. The complainant and the Clearinghouse shall be the only parties to the appeal.~~

~~7.6. The Chief Administrative Law Judge shall designate an Administrative Law Judge to hear the appeal of the complaint.~~

~~7.7. Appeals of complaints will be heard in the Commission's San Francisco or Los Angeles courtrooms as scheduled by the assigned Administrative Law Judge.~~

~~7.8. The Administrative Law Judge shall schedule and notice the appeal for hearing between 10 and 20 days after being assigned to hear the complaint. The Administrative Law Judge may, for good cause shown or upon agreement of the parties, grant a reasonable continuance of the hearing.~~

~~7.9. A party may order a transcript of the hearing, but the party shall pay the cost of the transcript in accordance with the Commission's usual procedures.~~

~~7.10. A party shall be entitled to the services of an interpreter at the Commission's expense upon written request to the assigned Administrative Law Judge no less than three business days prior to the hearing.~~

~~7.11. A party may be represented at the hearing by an attorney or other representative, but such representation will be at the party's sole expense.~~

~~7.12.~~

~~7.13.~~

~~7.4. Disputes regarding general contract-related matters, such as failure to win a contract award, must be brought before the appropriate court or other forum. The Commission's jurisdiction on contract related matters is limited. Some disputes or complaints regarding the Commission's GO 156 Supplier Diversity Program, such as complaints about non-compliance with GO 156, may fall under the complaint process set forth in the Commission's Rules of Practice and Procedure. The Notice of Appeal, described herein, is also available.~~

~~7.13.1. At the hearing, the complainant shall open and close. The Administrative Law Judge may, in his or her discretion, alter the order of presentation. Formal rules of evidence do not apply, and all relevant and reliable evidence may be~~

^{4.}~~See Ibid.~~

~~received in the discretion of the Administrative Law Judge.~~

8. PROCUREMENT GOALS

Each utility and other covered entity shall set substantial and verifiable short-term (one year), mid-term (three years), and long-term (five years) goals for the utilization of eligible suppliers under the Commission's Supplier Diversity Program ~~WMLGBTBEs~~. Goals shall be set annually for each major product and service category which provides opportunities for procurement. "Substantial and verifiable Goals" mean goals which are realistic and clearly demonstrate a ~~utility's~~ commitment to encourage the participation of ~~eligible suppliers~~. ~~WMDVLGBTBEs~~ ~~in utility purchases and~~ contracts.

~~Each utility shall comply with all general requirements set forth in this section 8.~~

~~For the LGBTBEs, additional LGBT-specific requirements are set forth in section 8.3 of this General Order. To the extent that the utilities believe there is/are inconsistency(ies) between general requirements of the utilities under section 8 and LGBTBE requirements specific to LGBTBEs under section 8.3, the utilities are excused from the general requirements of~~

~~section 8 and shall instead comply with the LGBT-specific requirements of section 8.3. If there is any additional guidance required, the utilities shall confer with the Commission's General Order 156 staff.~~

- 8.1. The utilities and other covered entities shall consider the following factors in setting ~~their~~ goals:
 - 8.1.1. Total utility purchasing and/or contracting projections;
 - 8.1.2. Availability of eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBEs~~ and competitiveness in the geographical area served by the utility or other entity;
 - 8.1.3. Market dynamics based on historical data and trends; and
 - 8.1.4. Other appropriate factors which ~~may~~would increase ~~the WMDVLGBTBEs'~~ the share of ~~utility~~ business for eligible suppliers under the Commission's Supplier Diversity Program.
- 8.2. Each utility or other covered entity shall establish ~~initial~~ minimum long-term procurement goals for each major category of products and services ~~the utility~~ purchased ~~ds~~ from eligible outside suppliers ~~vendors~~ of not less than the following: 15% for minority ~~owned~~ business enterprises; ~~and not less than~~ 5% for women ~~owned~~ business enterprises; 1.5% for ~~The goal for dDisabled vVeteran bBusiness eEnterprises;; and (DVBE) participation in procurement programs of the participating utilities is set at 1.5%, effective January 1, 1997 0.5% for 2022, 1.0% for 2023, and 1.5% for 2024 and beyond for LGBT business enterprises. No procurement goal has been adopted for persons with disabilities business enterprises.~~

~~For the purposes of this section, eContracts or purchases with eligible suppliers under the Commission's Supplier Diversity Program may only count toward one procurement goal. For example, with a minority and women -owned business enterprises mayean be counted toward one goal, either the minority -owned business enterprise goal or the women -owned business enterprise goal, but not toward both. Similarly, contracts with disabled veteran business enterprises can be counted either as disabled veteran business enterprise procurement or the appropriate women or minority business enterprise goal, but not toward both. The goal for Disabled Veteran Business Enterprise (DVBE) participation in procurement programs of the participating utilities is set at 1.5%, effective January 1, 1997.~~

- 8.3. ~~In setting the target percentage goal(s) for the LGBTBEs' participation in procurement~~

~~programs of the participating utilities, we establish a five-year plan, starting the date of the issuance of D.15-06-007, and framework to gather data and experience to set a meaningful target goal for LGBTBE procurement under this General Order. The utilities shall do the following:~~

- ~~8.3.1. In 2015, the first year of implementation of the LGBTBEs' inclusion in this General Order 156 Program, the utilities shall focus on integrating Assembly Bill 1678 requirements by identifying the LGBTBEs, services, and areas of need for which there are such qualifying LGBTBEs as well as any and all other effective outreach efforts to build the LGBTBE pool;~~
- ~~8.3.2. During the first five years of implementing the LGBTBEs' inclusion in this General Order 156 Program, the Commission should not set any numerically-based goals and targets for LGBTBE procurement;~~
- ~~8.3.3. During the first three years of implementing the LGBTBEs' inclusion in the General Order 156 Program, the utilities shall be excused from setting their own numerically-based goals and targets for LGBTBEs and instead focus their efforts on the following foundational and outreach activities:~~
 - ~~8.3.3.1. Updating corporate supplier diversity policy to include LGBTBEs and affirming the utilities' commitment to this policy.~~
 - ~~8.3.3.2. Establishing a process for recruiting and utilizing LGBTBEs.~~
 - ~~8.3.3.3. Integrating LGBTBEs into their corporate talent pool of suppliers.~~
 - ~~8.3.3.4. Working with NGLCC, local chapters, and/or any other groups, as appropriate, in developing an enhanced understanding on how to conduct effective outreach to the LGBTBE community for the utilities' procurement and supplier diversity staff.~~
 - ~~8.3.3.5. Developing targeted outreach programs for LGBTBEs in order to increase their knowledge and participation in the utilities' supplier diversity program.~~
 - ~~8.3.3.6. Monitoring the progress and effectiveness of the utilities' targeted outreach programs for LGBTBEs in order to increase their knowledge and participation in the utilities' supplier diversity program.~~
 - ~~8.3.3.7. Ensuring LGBTBEs suppliers are informed of available technical assistance and capacity building programs for enhancing the supplier's business acumen.~~
 - ~~8.3.3.8. Working with NGLCC, local chapters, and/or any other groups, as appropriate, to identify areas of the utilities' program where the program is underperforming or underutilized in contracting LGBTBE and continually improving ways to enhance performance and increase the LGBTBE talent pool.~~
 - ~~8.3.3.9. Updating processes, procedures and systems to support LGBTBE inclusion in procurement.~~
- ~~8.3.4. For the 2016, 2017 and 2018 annual reports and plans, the utilities shall prepare and submit the required detailed annual plans and reports with the proposed short and long term goals and timetables required by Section 9 and 10 of this e-amended GO 156 and Code section 8283, subsections (a), (b) and (c), and set non-numerically-based targets and goals which track the above outlined activities (outlined above in section 8.3.3.) and report on the related program challenges, accomplishments,~~

~~timetables and progress towards those non-numerically based targets and goals.~~

8.3.5. ~~After the first three years and starting annually with the 2019 annual reports and plans, the utilities shall, for LGBTBEs:~~

8.3.5.1. ~~Report on the non-numerically based targets and goals including reports on the above activities (outlined above in section 8.3.3);~~

8.3.5.2. ~~Establish numerically based targets and goals for LGBTBE procurement;~~

8.3.5.3. ~~Provide updates to the previously proposed short and long term goals and timetables from the prior year's annual report and plan for the LGBTBE procurement; and~~

8.3.5.4. ~~Update those numerically based targets/goals based on the experience to date, database of qualifying entities and needs of the utilities.~~

8.3.6. ~~By January 1, 2021, the utilities shall hold a public workshop and based thereon file a joint report and recommendation for the Commission's review of whether the Commission should, going forward, set a numerically based percentage target goal, as appropriate, for LGBTBE procurement and seek relief, if appropriate, from the requirement to annually report on the non-numerically based targets and goals including reports on the above activities (outlined above in section 8.3.3).~~

8.3.7. ~~The Commission's Supplier Diversity Program staff overseeing the amended General Order 156 program shall continuously monitor the annual reports, plans and Clearinghouse activities, and by January 1, 2021 or as soon as practicable thereafter, present to the Commission, during its 2021 en banc session, a report and a recommendation for setting a meaningful target goal for the utilities' LGBTBE procurement based on the utilities' reports, plans and experiences.~~

8.4.8.3. ~~The specification of initial long-term~~ procurement ~~goals in this section shall not prevent the utilities~~ or other covered entities ~~from seeking to reach parity with those public agencies and other companies, which the Legislature states found in Public Utilities Code Section 8281(b)(1)(B) are awarding 30% or more of their contracts to women, minority, disabled veteran, and LGBT business enterprises-WMLGBTBEs.~~

8.5.8.4. ~~Procurement~~ GGoals shall also be established for both minority women ~~-owned~~ business enterprises and non-minority women ~~-owned~~ business enterprises. ~~These goals are to be a subset of the overall goal for WMBEs established by Section 8.2 (initially 20% for both women-owned business enterprises and minority-owned business enterprises).~~ These goals are intended to ensure that utilities and other covered entities ~~do not direct their WMBE procurement programs toward non-minority women business enterprises- and minority men -owned business enterprises to the detriment or exclusion of minority women -owned business enterprises.~~

8.6.8.5. ~~Procurement~~ Ggoals shall be set for each major category of products or services. Goals need not be set for products or services which fall within an "excluded category" ~~created by a utility~~ pursuant to former Section 8.5.⁵

⁵ ~~Pursuant to In D.03-11-024, the Commission previously revised GO 156 and, in part, added the current modified version of the s~~Section 8.7. ~~above. Prior to D.03-11-024, The former Section 8.5, referred above, refers to prior section 8.5 of GO 156, before the Commission adopted D.03-11-024, which provided:~~

A utility may create an "excluded category" of products or services where it is clearly evident that WMDVBES do not provide a specific product or service, or that sole source procurement is the only available procurement method. The utility shall bear the burden of demonstrating the unavailability of WMDVBES capable of supplying such products or

~~8.7.8.6.~~ A utility may no longer create an “excluded category” of products and services for compliance with this General Order. However, ~~F~~for each major category of products and services where the minimum long-term procurement goals required by Section 8.2 are not met, the utility or other covered entity shall include a comprehensive discussion ~~and detailed description of all~~ny efforts made to find or recruit eligibleWMDVLGBTBE suppliers of products or services ~~in areas where WMDVLGBTBE suppliers are currently the only available procurement method~~. The utility and other covered entity may also explain in detail in its annual report how its ability to meet its procurement WMDVLGBTBE goals are affected because eligible suppliersWMDVLGBTBE’s capable of supplying certain products and services are unavailable, or because sole source procurement is the only available procurement method. As part of this explanation~~In this explanatory section~~, the utility and other covered entity may also include data with exclusions pursuant to former Section 8.5.⁶ If such data is necessary to more fully explain why it has not been able to eliminate exclusions, provided that the utility or other covered entities’s report must contain the data without exclusions in the first sentence.

~~8.8.8.7.~~ A utility or other covered entity which is presently purchasing products or services from affiliates may, subtract the dollars paid to affiliates for these products or services from the total dollars used as the basis for establishing procurement goals for purchases from eligible supplierWMDVLGBTBEs of these categories of products or services, provided that the utility or other covered entity encourages the affiliate to establish an appropriate subcontracting program where such affiliate employs subcontractors. Any utility or other covered entity which takes advantage of this section must in its annual report to the Commission state whether the affiliates have established a subcontracting program and describe the results of any such program. The utility or other covered entities’s annual plan must describe any future plans to encourage such a sub-contracting program. This section applies only to those utilities which are purchasing products or services from affiliates as of the effective date of the General Order adopted on May 30, 1988.

~~8.9.8.8.~~ Procurement ~~g~~Goals for each specific product or service category shall be expressed as a percentage of total dollars awarded by a utility and other entity to outside suppliers~~vendors~~ in that category; however, where appropriate, non-numeric goals may also be included.

~~8.10.8.9.~~ Overall program procurement goals shall be expressed as a percentage of total dollars awarded to outside suppliers~~vendors~~ in all categories of products and services purchased by a utility or other covered entity other than products and services which are included in a fuel procurement base established pursuant to Section 8.11.

~~8.11.8.10.~~ Payments to other utilities and franchise tax fees, other taxes and postage need not be included in the standard procurement base used to establish procurement goals.

~~8.12.8.11.~~ Each utility and other covered entity may establish a separate fuel procurement base for reporting progress and establishing goals for procurement of fuels from eligible suppliers under the Commission’s Supplier Diversity Program WMDVLGBTBEs. Utilities or other covered entities choosing to report fuel purchases

services. Because there may in the future be WMDVBEs capable of supplying products or services in an excluded category, the utility must justify in its annual report the continued existence of is excluded category. Excluded categories must be noted in the utility’s annual report to the Commission on WMDVBE program progress and future plans.

⁶ See *supra* footnote 6.

separately from the purchase of other products and services must follow the guidelines set forth below:

- ~~8.12.1~~8.11.1. Fuel used to power vehicles, heat utility facilities, and supply emergency generators may not be included in the fuel procurement base. Such fuel must be ~~included~~include-ed in the standard procurement base used to establish goals, unless the fuel is purchased from another utility and thus subject to the exclusion authorized herein;
- ~~8.12.2~~8.11.2. The fuel procurement base must, at a minimum, include all purchases of natural gas from domestic on-shore natural gas markets;
- ~~8.12.3~~8.11.3. A ~~utility~~utilities or other covered entity which purchases ~~eligible from~~eligible ~~WMDVLGBTBE~~ supplier's fuels other than domestic onshore natural gas must include such purchases in the fuel procurement base because Section 8.7 of this amended General Order does not permit utilities or other covered entities to exclude product and services categories for which there are available eligible supplier~~WMDVLGBTBEs~~; and
- ~~8.12.4~~8.11.4. A ~~utility~~utilities or other covered entities may exclude purchases of fuel other than domestic onshore natural gas if such fuel qualifies for an exclusion under former Section 8.5~~8~~ and if the utility plans for and reports on progress in increasing the procurement of such fuels from eligible supplier~~WMDVLGBTBEs~~.
- ~~8.13~~8.12. Each utility and other covered entity shall make special efforts to increase utilization and encourage entry into the marketplace of eligible supplier~~WMDVLGBTBEs~~ in product or service categories where there has been low utilization of eligible supplier~~WMDVLGBTBEs~~, such as legal and financial services, fuel procurement, and areas that are considered technical ~~in nature~~.
- ~~8.14~~8.13. No penalty shall be imposed for failure of any utility or other covered entity to meet ~~and/or~~ exceed procurement goals.
- ~~8.15~~8.14. Utilities and other covered entities shall report their procurement goals in their annual plans.

9. REQUIRED ANNUAL REPORTS

Utilities and other covered entities shall ~~provide~~serve an electronic copy of their Annual Report to~~on~~ the Commission's on the Executive Director on or before, ~~by~~ March 1 of each year. ~~an~~ The Annual Report must provide details on~~on their the~~ utilities' or other covered entities' WMDVLGBTBE ~~p~~Programs created to comply with the Commission's Supplier Diversity Program. Section 9 does not apply to utilities and electric service providers with gross annual California revenues between \$15 million and \$25 million.

9.1. The Annual Report shall contain at least the following elements:

- 9.1.1. A description of ~~WMDVLGBTBE~~ program activities engaged in during the previous calendar year. This description shall include both internal and external activities, and include the approximate amount of funding, to the extent available, directly expended on development and distribution of technical assistance to small and diverse businesses.
- 9.1.2. A summary of ~~WMDVLGBTBE~~ purchases and/or contracts, with breakdowns by ethnicity, product and service categories compared with total ~~utility~~ contract dollars awarded to outside ~~suppliers~~vendors in those categories, and with information regarding the total number of ~~WMDVLGBTBEs with~~ contracts, and the dollars awarded to eligible suppliers under the

- Commission's Supplier Diversity Program ~~such WMDVLGBTBEs~~. Each utility or other covered entity shall report the number of from eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBEs~~ who have the majority of their workforce working in California, to the extent such information is readily accessible. Each utility or other covered entity shall also report the number of from eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBEs~~ that received direct spend during the reporting year.
- 9.1.3. An itemization of ~~WMDVLGBTBE~~ program expenses provided in the format approved by Commission staff, as guided by required by Attachment A to D.95-12-045, ~~or in an approved updated format in compliance with~~ D.15-06-007, and other relevant decisions.
 - 9.1.4. A description of progress in meeting or exceeding set procurement goals and an explanation of any circumstances that may have resulted in not meeting those caused the utility to fall short of its goals.
 - 9.1.5. A summary of prime contractor utilization of eligible subcontractors suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBE subcontractors~~.
 - 9.1.6. A list of complaints received from eligible suppliers ~~WMDVLGBTBE complaints in received during~~ the past year, accompanied by a brief description of the nature of each complaint and its resolution or current status. For purposes of this subsection, a complaint means any written or verbal statement from an eligible supplier or third-party that the utility's or other covered entity's program is unsatisfactory or unacceptable.
 - 9.1.7. A description of any efforts made to recruit eligible suppliers ~~WMDVLGBTBE suppliers of for~~ products or services in procurement categories where ~~WMDVLGBTBE~~ utilization has been low, such as legal and financial services, fuel procurement, and areas that are considered ~~highly~~ technical ~~in nature~~.
 - 9.1.8. Utilities and other covered entities shall retain all documents and data they rely on in preparing their ~~WMDVLGBTBE~~ annual reports for the longer of either three years or in conformance the with the utilities' individual document retention policies of the utility or other covered entity; The utility or other covered entity shall provide these documents and data to the Commission, upon request.
 - 9.1.9. Utilities and other covered entities shall summarize ~~WMDVLGBTBE~~ purchases and/or contracts from eligible suppliers under the Commission's Supplier Diversity Program in product and service categories that include energy storage systems, vegetation management, renewable and non-renewable energy, wireless communications, broadband, smart grid, rail projects and electronic procurement, in addition to their current reporting categories. Utilities have discretion to segregate overlapped dollars. Utilities and other covered entities shall report renewable and nonrenewable energy procurement in a manner similar to their reporting of fuel procurement.
 - 9.1.10. The Commission's ~~staff's Division of Water and Audits,~~ may conduct as many audits of utilities and other covered entities as it deems necessary but shall commence an audit program in 2012 wherein at least one annual GO 156 report ~~will be~~ randomly selected every two years from a different or one utility industry group and audited to to confirm that the ~~most recently~~ reported ~~WMDVLGBTBE~~ spend is accurate. The Commission's staff Audit Division will may determine the a random selection process for this random selection and the audit methodology ~~to perform the audit, commencing with the energy~~

~~industry, followed by telecommunications. The Commission's staff may conduct audits of any reports or data provided to the Commission by utilities and other covered entities regarding their participation in the Supplier Diversity Program.~~

~~9.1.9.9.1.11.~~ Each utility or other covered entity which elects to report fuel procurement separately must file with the Commission's Executive Director on or before March 1 of each year, a separate detailed and verifiable report on participation in fuel markets on by eligible suppliers under the Commission's Supplier Diversity Program ~~WMDVLGBTBE participation in fuel markets~~. These reports must include, at a minimum, the results of purchases in each fuel category.

(a) Each utility or other covered entity shall report purchases by:

- (1) Market origin and fuel type;
- (2) Volume and dollar magnitude;
- (3) Term of sale, e.g., spot, intermediate, long term; and
- (4) Ethnicity and gender of the supplier.

(b) Each utility and other covered entity shall provide:

- (1) An explanation of how existing and/or changing market conditions are affecting the utility's or other covered entity's ability to meet or exceed its procurement ~~WMDVLGBTBE~~ goals for fuel;
- (2) A comprehensive description of the specific out-reach programs used to seek eligible supplier ~~WMDVLGBTBE~~ fuel suppliers in each market in which fuel is purchased; and
- (3) A justification for any exclusion of a specific fuel category from the utility's or other covered entity's fuel procurement base.

9.2. This General Order is not intended to permit erosion of ~~WMDVLGBTBE~~ programs and reporting presently engaged in by a utility.

9.3. Nothing in this General Order shall prohibit any utility or other covered entity from breaking down specific categories further than presently required (for example, reporting contracts awarded to Filipino Americans separately from those awarded to Asian Pacific Americans, or reporting male and female results within minority business enterprise ~~-owned~~ classifications).

~~9.4. In the annual reporting of the LGBTBE procurement, the utilities shall comply with all general requirements set forth in this section 9 and the additional LGBT-specific requirements set forth in section 8.3 of this General Order. To the extent that the utilities believe there is/are inconsistency(ies) between general reporting requirement of the utilities under section 9 and reporting requirements specific to LGBTBEs under section 8.3, the utilities are excused from the general requirements of section 9 and shall instead comply with the LGBT-specific requirements of section 8.3. If there is any additional guidance required, the utilities shall confer with the Commission's General Order 156 staff.~~

10. REQUIRED ANNUAL PLANS

Utilities and other covered entities shall ~~provide~~serve an electronic copy of its Annual Plan on the Commission's Executive Director on or before, ~~by~~ March 1 of each year, that includes a detailed and verifiable plan for encouraging procurement in all

categories eligible business enterprises under the Commission's Supplier Diversity Program women, minority, disabled veteran and LGBT business enterprises procurement in all categories. Section 10 does not apply to utilities and electric service providers with gross annual California revenues between \$15 million and \$25 million.

10.1. The Annual Plan shall contain at least the following elements:

10.1.1. Short, mid, and long term procurement goals, ~~set~~ as required by Section 8, herein~~supra~~;

10.1.2. A description of its WMDVLGBTBE program activities planned for the next calendar year. This description shall include both internal and external activities;

10.1.3. A pPlans for recruiting eligible suppliers~~WMDVLGBTBE suppliers~~ of those products or services where ~~WMDVLGBTBE~~ utilization has been low, such as legal and financial services, fuel procurement, and areas that are considered highly technical~~in nature~~.

10.1.4. A pPlans for seeking and or cultivating~~recruiting~~ WMDVLGBTBE eligible suppliers ~~suppliers of those~~ products and/or services where ~~WMDVLGBTBE suppliers eligible suppliers~~ are currently unavailable.

10.1.5. A pPlans for encouraging both prime contractors and grantees to engage eligible suppliers ~~WMDVLGBTBEs~~ in subcontracts in all categories which provide subcontracting opportunities.

10.1.6. A pPlans for complying with the ~~WMDVLGBTBE~~ program guidelines established by the Commission, as required by Pub. ~~lie~~ Util. ~~ities~~ Code ~~§~~section 8283(c). The Executive Director's Office will be responsible for developing, periodically refining, and recommending such guidelines for the Commission's adoption in an appropriate procedural forum.

11. Annual Reports and Annual Plans for Community Choice Aggregators:

As set forth in R.21-03-010, community choice aggregators shall comply with the same reporting requirements as utilities except that the reporting requirements may be modified to reflect the fact that, at this time, energy procurement represents the majority of expenses for a typical community choice aggregator. Staff will develop reporting requirements more limited than those applicable to utilities but still include the information in Section 9 and Section 10, herein. Staff will meet with community choice aggregators and stakeholders on consider revisions to the reporting requirements, as needed. Staff will provide a copy of any revised reporting requirements to community choice aggregators, stakeholders, and the service list of this proceeding (or successor proceeding related to GO 156). These reporting requirements must continue to promote the state policy of increasing contracts between community choice aggregators and eligible suppliers.

12. Annual Forms for Smaller Utilities and Smaller Electric Service Providers

Pursuant to Pub. Util. Code § 8283(f), this section sets forth the rules that apply to smaller utilities and electric service providers, i.e., those with gross annual California revenues between \$15 million and \$25 million. These smaller other covered entities shall annually, on or before March 1, electronically submit a "simplified form" to the Commission's Executive Director. The information to be included in the form shall be developed by the Commission's staff together with these other covered entities, as set forth in Rulemaking 21-03-010. The Commission's staff will provide a copy of this simplified form via email to the service list of Rulemaking 21-03-010 (or the successor proceeding). The reporting requirements in Section 9 and Section 10 do not apply to

these smaller other covered entities.

11.13. COMMISSION ANNUAL REPORT TO THE LEGISLATURE

As required by Pub. Util. Code § 8283(e), ~~The~~ Commission shall provide an annual report to the Legislature beginning ~~in~~ January, 1989, on the progress of activities under-taken by each utility or other entity to implement Pub. ~~lie~~ Util. ~~ities~~ Code §366.2 and §§sections 8281 through 8286 and this General Order, ~~as required by Section 8283 (e).~~

11.1.13.1. In this annual report, the Commission shall recommend a program for carrying out the policy declared in the above-mentioned sections of the Pub. ~~lie~~ Util. ~~ities~~ Code, together with recommendations for any legislation it deems necessary or desirable to further that policy.

13.2. This annual report shall include recommendations to the utilities and other covered entities for the achievement of maximum results in implementing legislative policy and this General Order.

11.2.13.3. This annual report shall include information initially identified in Resolution Exec-001, which provides for monitoring and evaluation of the Supplier Clearinghouse “on a periodic basis.” As part of this monitoring and evaluation of the Supplier Clearinghouse, the Commission’s Annual Report to the Legislature will include an analysis of the existing contract between Supplier Clearinghouse and the utilities (e.g., audits of revenues and expenditures associated with the certification program).

12.14. WORKFORCE DIVERSITY AND BOARD DIVERSITY REPORTING

All utilities and other covered entities shall include information regarding workforce diversity and board diversity in annual reports, starting March 2024. The Commission’s staff will implement this mandatory reporting requirement. The Commission’s staff will provide the mandatory reporting requirements to the service list of R.21-03-010 (or successor proceeding) and place the requirements on the Commission’s webpage for GO 156.

15. VOLUNTARY COMPLIANCE AND REPORTING

The Commission supports all efforts to voluntarily comply with the state policy of increasing procurement from diverse suppliers set forth in Pub. Util. Code §§ 8281-8286.

Pub. Util. Code § 366.2(m)(3) encourages community choice aggregators with gross annual revenues under \$15 million to adopt a plan for increasing procurement from small, local, and diverse business enterprises in all categories.

Pub. Util. Code § 8283(e)(1) encourages certain small utilities and electric service providers, i.e., those with gross annual California revenues under \$15 million, to adopt a plan for increasing women, minority, disabled veteran, and LGBT business enterprise procurement.

Pub. Util. Code § 8283(e)(2) encourages exempt wholesale generators, distributed energy resource contractors, and energy storage system companies to adopt a plan for increasing women, minority, disabled veteran, and LGBT business enterprise procurement and to voluntarily report activity in this area to the Legislature on an annual basis. Cable television corporations and direct broadcast satellite providers were previously included in Pub. Util. Code § 8283(e)(2).

13.16. COMMISSION ANNUAL EN BANC MEETING

The Commission shall hold an annual *en banc* hearing or other proceeding ~~in order~~ to

provide all stakeholders, such as utilities, other covered entities, ~~and~~ members of the public, ~~including~~ community-based organizations, and eligible suppliers under the Commission's Supplier Diversity Program, the opportunity to share ideas and make recommendations for effectively implementing legislative policy under Pub. Util. Code §366.2 and §§ 8281 through 8286 and this General Order. The Commission's staff shall provide notice of the annual *en banc* broadly, including to the service list for the most recent proceeding pertaining to General Order 156 and any service lists pertaining to related topics.

Approved and dated June 11, 2015, at San Francisco, California.

PUBLIC UTILITIES COMMISSION STATE OF CALIFORNIA

By Timothy Sullivan, ~~Acting~~ Executive Director